

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

JAMES G. ALEXANDER,

Plaintiff,

Case No. 3:20-cv-482

vs.

Magistrate Judge Peter B. Silvain, Jr.

ERIE INSURANCE COMPANY,

Defendant.

**ORDER DENYING DEFENDANT’S MOTION TO DISMISS FOR FAILURE TO STATE A
CLAIM WITHOUT PREJUDICE TO REFILE (Doc. No. 18)**

This case is before the Court upon Defendants’ motion to dismiss Plaintiff’s complaint under Fed. R. Civ. P. 12(b)(6) and Plaintiff’s Response and memorandum in opposition (Doc. No. 20). Based on a review of the entire record, the Court concludes that litigation under Fed. R. Civ. P. 12(b)(6) is unwarranted and would not advance the parties’ or the Court’s interests in efficient case management.

Rule 12(b)(6) -- like each federal rule of civil procedure -- “should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.” Litigation of the instant case under Rule 12(b)(6) does not align with this instruction. Instead, the better way to move this case forward towards a “just, speedy, and inexpensive determination ...,” *id.*, is to advance it to the discovery stage while providing the parties with an opportunity to consider settlement or further litigation at the summary-judgment stage or trial.

Defendants motion to dismiss (Doc. No. 18) is **DENIED WITHOUT PREJUDICE TO REFILE.**

IT IS SO ORDERED.

March 28, 2022

s/Peter B. Silvain, Jr.
Hon. Peter B. Silvain, Jr.
United States Magistrate Judge